

### **REMARKS/ARGUMENTS**

In the Final Office Action mailed July 3, 2006, claims 1-20 stand rejected. Applicants have thoroughly reviewed the outstanding Office Action, including the Examiner's remarks, and the reference cited therein. The following remarks are believed to be fully responsive to the Final Office Action. All the pending claims at issue are believed to be patentable over the cited references.

Claims 19-20 have been cancelled without prejudice or disclaimer of the subject matter recited therein. Claim 16 has been amended to include subject matter previously recited in claims 19-20, hence no new matter has been added and no new issues have been raised.

### **CLAIM REJECTIONS UNDER 35 U.S.C. § 102**

Claims 1-20 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0157497 A1 to Porter *et al.* (Porter '497). This rejection is respectfully traversed.

As stated in M.P.E.P. §2131, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). In the present instance, the alleged prior art reference is Porter '497 and, as is discussed below, Porter '497 fails to describe the elements of the claimed invention.

As evidenced in the title thereof, Porter '497 discloses an adjustable pedal assembly. More specifically, as illustrated in FIG. 1 thereof, Porter '497 discloses an assembly 10 that includes a drive mechanism 7.

However, Porter '497 fails to disclose at least a "plunger," as recited in claims 1-18 of the present application. Porter '497 also fails to disclose at least, "a control device having a body

fixed relative to said guide and a plunger movable relative to said body in a direction transverse to said path of movement,” as recited in claims 1-15 of the present application. In addition, Porter ‘497 also fails to disclose or suggest at least either the “first ball mechanism” or the “second ball mechanism” recited in claims 16-18 of the present application.

On page 2 of the Office Action, it is alleged that there exists an “unnumbered plat between plunger and pedal, see Fig 1.” However, Applicants respectfully point out that, although Porter ‘497 does disclose in paragraph [0031] thereof that slots 46 and 47 permit mechanical and electrical connections to pedals 4 and 5, Porter ‘497 fails to disclose at least the “plunger” recited in claims 1-18 of the present application. At least for this reason, Porter ‘497 fails to anticipate the subject matter recited in any of claims 1-18 of the present application.

In addition, although it is alleged in the Office Action that the “control device” recited in claims 1-15 is described in paragraph [0031] of Porter ‘497, Applicants point out that, at best, paragraph [0031], at best, merely describes a drive mechanism 7, a sliding plate 1 that is distinct (i.e., “separate”) from the drive mechanism 7, a plurality of slots 41, 42, 43, 46, 47, and a plurality of pins 40, 44, 45. In other words, even assuming, *arguendo*, that Porter ‘497 did disclose a “plunger”, Porter ‘497 nonetheless fails to disclose at least a “control mechanism having a body...*and* a plunger” (emphasis added).

In addition to the distinctions discussed above, Porter ‘497 also fails to disclose ball mechanisms of any kind. At best, in paragraph [0031] thereof, Porter ‘497 merely discloses that slots 46 and 47 “permit mechanical and electrical connections to pedals 4 and 5.” As such, Porter ‘497 also fails to disclose at least the “first ball mechanism” or the “second ball mechanism” recited in claims 16-18 of the present application

At least in view of the above remarks and cancellation of claims 19-20, reconsideration and withdrawal of the rejection of claims 1-20 under 35 U.S.C. § 102(e) as being anticipated by Porter ‘497 is respectfully requested.


### CONCLUSION

At least in view of the foregoing, it is respectfully submitted that the present application is in condition for allowance. If it is believed that the application is not in condition for allowance, the Examiner is requested to contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicant petitions for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to Attorney Docket No. 59603.21582.

Respectfully submitted,

BAKER & HOSTETLER LLP

  
Hermes M. Soyez  
Reg. No. 45,852

Date: October 3, 2006  
Washington Square, Suite 1100  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5304  
Telephone: 202-861-1500  
Facsimile: 202-861-1783